

PATENT COOPERATION TREATY

PCT

NOTIFICATION OF ELECTION

(PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Commissioner
US Department of Commerce
United States Patent and Trademark
Office, PCT
2011 South Clark Place Room
CP2/5C24
Arlington, VA 22202
ETATS-UNIS D'AMERIQUE
in its capacity as elected Office

Date of mailing (day/month/year) 20 June 2001 (20.06.01)	
International application No. PCT/GB00/03693	Applicant's or agent's file reference PTD/sl/2315P
International filing date (day/month/year) 26 September 2000 (26.09.00)	Priority date (day/month/year) 27 September 1999 (27.09.99)
Applicant CLARK, Helen, Jennifer et al	

1. The designated Office is hereby notified of its election made:

☒ in the demand filed with the International Preliminary Examining Authority on:
02 April 2001 (02.04.01)

☐ in a notice effecting later election filed with the International Bureau on:

2. The election ☒ was
☐ was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No.: (41-22) 740.14.35	Authorized officer Olivia TEFY Telephone No.: (41-22) 338.83.38
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PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference PTD/s1/2315P	FOR FURTHER ACTION see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. PCT/GB 00/ 03693	International filing date (day/month/year) 26/09/2000	(Earliest) Priority Date (day/month/year) 27/09/1999
Applicant SMITH & NEPHEW PLC		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 4 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence listing :

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☒ **Certain claims were found unsearchable** (See Box I).

3. ☐ **Unity of invention is lacking** (see Box II).

4. With regard to the **title**,

☐ the text is approved as submitted by the applicant.

☒ the text has been established by this Authority to read as follows:

TOPICAL SCAR TREATMENT USING A MIXTURE OF SILICONES

5. With regard to the **abstract**,

☒ the text is approved as submitted by the applicant.

☐ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is Figure No.

☐ as suggested by the applicant.

☐ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

☐ None of the figures.

INTERNATIONAL SEARCH REPORT

International Application No

PCT/00/03693

A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A61L15/22 A61L26/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61L A61M A61K A61B

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	✓ WO 98 22084 A (PROCTER & GAMBLE) 28 May 1998 (1998-05-28) abstract page 1, line 9-30 page 3, line 6-19 claims; example 1	1-6
Y	✓ EP 0 638 308 A (DOW CORNING) 15 February 1995 (1995-02-15) abstract page 4 -page 5 table	1-6
Y	US 5 019 033 A (GERIA NAVIN M) 28 May 1991 (1991-05-28) abstract	8,9
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☒ Further documents are listed in the continuation of box C.☒ Patent family members are listed in annex.

* Special categories of cited documents :

A document defining the general state of the art which is not considered to be of particular relevance

E earlier document but published on or after the international filing date

L document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

O document referring to an oral disclosure, use, exhibition or other means

P document published prior to the international filing date but later than the priority date claimed

T later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

X document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

Y document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

S document member of the same patent family

Date of the actual completion of the international search

18 December 2000

Date of mailing of the international search report

28/12/2000

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
NL - 2280 HV Rijswijk
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Authorized officer

Böhm, I

INTERNATIONAL SEARCH REPORT

International Application No

PCT/00/03693

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
Y	<p>W0 91 08732 A (GILLETTE CO) 27 June 1991 (1991-06-27) abstract page 1, line 5-21</p> <p>---</p>	8,9
Y	<p>US 5 496 544 A (DEFOSSEZ BEATRICE ET AL) 5 March 1996 (1996-03-05) abstract column 1, line 59 -column 3, line 55</p> <p>---</p>	1-6
Y	<p>US 5 336 692 A (GANS EUGENE H ET AL) 9 August 1994 (1994-08-09) abstract column 1, line 11-19 column 2, line 41-47 column 6, line 23-34</p> <p>---</p>	1-6
Y,P	<p>US 6 093 408 A (HASENOEHRL ERIK JOHN ET AL) 25 July 2000 (2000-07-25) cited in the application the whole document</p> <p>---</p>	1-6
Y,P	<p>EP 1 016 400 A (SHISEIDO CO LTD) 5 July 2000 (2000-07-05) cited in the application page 3, line 3-28 claims; tables</p> <p>---</p>	1-6
A	<p>US 4 694 021 A (SCHWEIGER RAYMOND H) 15 September 1987 (1987-09-15) abstract</p> <p>-----</p>	1

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/00/03693

Patent document cited in search report	Publication date	Patent family member(s)	Publication date
WO 9822084 A	28-05-1998	NONE	
EP 0638308 A	15-02-1995	US 6017546 A CA 2126813 A DE 69423274 D DE 69423274 T ES 2147219 T JP 7069860 A	25-01-2000 07-01-1995 13-04-2000 03-08-2000 01-09-2000 14-03-1995
US 5019033 A	28-05-1991	NONE	
WO 9108732 A	27-06-1991	AU 657469 B AU 7048191 A CA 2069433 A DE 69028786 D DE 69028786 T EP 0505474 A ES 2091910 T MX 173607 B US 5393518 A	16-03-1995 18-07-1991 09-06-1991 07-11-1996 03-04-1997 30-09-1992 16-11-1996 17-03-1994 28-02-1995
US 5496544 A	05-03-1996	FR 2688134 A CA 2102189 A DE 69304162 D DE 69304162 T EP 0583460 A ES 2093412 T WO 9317660 A JP 6507426 T	10-09-1993 06-09-1993 26-09-1996 13-03-1997 23-02-1994 16-12-1996 16-09-1993 25-08-1994
US 5336692 A	09-08-1994	AU 8301591 A CA 2086254 A NZ 238696 A WO 9200077 A	23-01-1992 29-12-1991 27-07-1993 09-01-1992
US 6093408 A	25-07-2000	NONE	
EP 1016400 A	05-07-2000	CN 1272057 T WO 9956702 A JP 2000016919 A	01-11-2000 11-11-1999 18-01-2000
US 4694021 A	15-09-1987	AU 7244687 A	12-11-1987

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PTD/sl/2315P	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/GB00/03693	International filing date (day/month/year) 26/09/2000	Priority date (day/month/year) 27/09/1999
International Patent Classification (IPC) or national classification and IPC A61L15/22		
Applicant SMITH & NEPHEW PLC et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.


2. This REPORT consists of a total of 7 sheets, including this cover sheet.

- ☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☒ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☒ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☒ Certain observations on the international application

Date of submission of the demand 02/04/2001	Date of completion of this report 02.01.2002
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer Young, A Telephone No. +49 89 2399 7811



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB00/03693

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, pages:

1-29 as originally filed

Claims, No.:

1-9 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB00/03693

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:

- ☐ the entire international application.
- ☒ claims Nos. 1-7.

because:

- ☒ the said international application, or the said claims Nos. with respect to industrial applicability relate to the following subject matter which does not require an international preliminary examination (*specify*):
see separate sheet
- ☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
- ☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
- ☐ no international search report has been established for the said claims Nos. .
2. A meaningful international preliminary examination cannot be carried out due to the failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions:
- ☐ the written form has not been furnished or does not comply with the standard.
- ☐ the computer readable form has not been furnished or does not comply with the standard.

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims 1-7
	No: Claims 8 and 9
Inventive step (IS)	Yes: Claims
	No: Claims 1-9
Industrial applicability (IA)	Yes: Claims 1-9 (see separate sheet)

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/GB00/03693

No: Claims

2. Citations and explanations
see separate sheet

VI. Certain documents cited

1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Concerning Section III:

Claims 1-7 relate to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT. Consequently, no opinion will be formulated with respect to the industrial applicability of the subject-matter of these claims (Article 34(4)(a)(i) PCT).

Concerning Section V:

The following documents mentioned in the search report are considered as the relevant state of the art. The numbering will be adhered to in the rest of the procedure:

D1: WO 98 22084 A (PROCTER & GAMBLE) 28 May 1998 (1998-05-28)

D2: EP-A-0 638 308 (DOW CORNING) 15 February 1995 (1995-02-15)

Document D1 discloses a skin care composition (see p.3, lines 1-25) comprising

a) an anhydrous silicone mixture comprising

- i) an ethylene oxide/propylene oxide silicone copolymer
- ii) an ethylene oxid silicone copolymer
- iii) a silicone gum
- iv) a silicone fluid and

b) water

Document D2 (see abstract, and claims) describes a water-in-volatile silicone emulsion gel having skin moisturizing qualities, which is formed by mixing an oil phase with a water phase.

The oil phase contains a siloxane polyether (p.2, line 31) and may contain other ingredients in addition such as waxes, especially alkylmethylsiloxane wax (p.3, line 43). Non-volatile silicones (p.3, line 58 to p.4, line 2) are useful in the oil phase as film formers having a viscosity from 100 to 10.000 mm²/s. Another useful silicone film forming material is a silicone gum (p.4, lines 23-30) such as the hydroxy terminated dimethylsilicone polymer. Finally a volatile silicone (p.4, lines 45-51) may be employed in the oil phase having a viscosity from 0.65 to 5.0 mm²/s at 25°C.

Hexamethyldisiloxane was found to be especially useful (p.5, line 5-6).

The subject-matter of claims 1-7 is considered to be novel over the prior art within the meaning of Article 33(2) PCT, since no method of treating topical scars with a composition as claimed in claim 1 was disclosed in D1 or D2.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB00/03693

Claim 8 refers to a medical applicator and/or a packaging device and is therefore a product claim. A product should be defined by the technical features of the product as such and not by functional features of an intended use. In interpreting claims for determining novelty, non distinctive characteristics of a particular intended use should be disregarded. Hence, the subject-matter of claim 8 discloses nothing more than the device per se.

The subject-matter of claims 8 and 9 is not novel within the meaning of Article 33 (2) PCT, since medical applicators such as roller-ball pens are known in the art.

The problem to be solved can be seen as to provide a method of treating or preventing topical scars. The posed solution is the use of the topical scar therapy agent of claim 1. The applicant explains in the description that a major factor in scar treatment or prophylaxis is to reduce loss of skin moisture or to actively provide skin hydration. Document D2 discloses a gel comprising an oil phase and a water phase, in which the oil phase comprises organosilicone compounds and the use of said gel for moisturizing skin. Therefore document D2 discloses an alternative solution to the posed problem. In view of D2 a skilled person was bound to expect that the composition of claim 1 would solve the problem.

Hence, the subject-matter of claims 1-9 does not involve an inventive step, as required by Article 33(3) PCT.

For the assessment of the present claims 1-7 on the question whether they are industrially applicable, no unified criteria exist in the PCT Contracting States. The patentability can also be dependent upon the formulation of the claims. The EPO, for example, does not recognize as industrially applicable the subject-matter of claims to the use of a compound in medical treatment, but may allow, however, claims to a known compound for first use in medical treatment and the use of such a compound for the manufacture of a medicament for a new medical treatment.

Concerning Section VI:

Certain published documents (Rule 70.10)

Application No Patent No	Publication date (day/month/year)	Filing date (day/month/year)	Priority date (valid claim) (day/month/year)
US6093408	25 July 2000	25 October 1996	
EP1016400	5 July 2000	30 April 1999	30 April 1998

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/GB00/03693

Concerning Section VIII:

Claims 4 and 6 refer to claim 3 or 1 respectively. They are defined as the medical applicator and /or packaging device and not as a method. Since the technical features disclosed refer to the method and also the dependency is from a method claim, it is presumed that the applicant intended to further define the method of claim 1.

Consequently all claims 1-7 were examined as if they were method claims. (see also Section III)

The term packaging device is not clear. Packaging has two different meanings, first the material to pack something and second the action of packing. Therefore a packaging device could be the packing but also a machine for packing.

The wording of claim 4 is not clear. It could be understood that the mixture of silicone fluids has a viscosity of 20mm²/s at 25°C and 12,500mm²/s at 25°C. Or it could be understood that the silicone fluid consists of a mixture of several silicone fluids, one having a viscosity of 20mm²/s at 25°C and the other of 12,500mm²/s at 25°C.